"an expert law enforcement consultant," but "to designate him as an

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Expert Witness and submit a complete report pursuant to Rule 26(f), Plaintiff will need to take depositions and obtain factual information via written discovery." (Id. at 2.) No explanation has been given for failing to take depositions or serve written discovery while this action has been pending.

Although Plaintiff's counsel states that she intends to serve written discovery prior to the current deadline, September 4, 2012, she nevertheless requests that the deadline to designate experts, for written discovery, and the discovery cutoff all be extended ninety days. (Id. at 2-3.) The current deadline for Plaintiff's expert designation is September 4, 2012, and the discovery cutoff is November 5, 2012. (Id. at 2.)

Counsel for Plaintiff contacted defense counsel who "indicated that while he couldn't stipulate to a continuance of the date for Plaintiff's designation, he would not oppose an exparte motion for continuance of the expert designation dates." (Id. at 3.)

According to Plaintiff, "Defense counsel suggested a 90 day extension for this [expert designations] and other discovery."

(Id.) Counsel does not refer to other scheduled dates. But a ninety-day extension of the discovery cutoff would necessarily impact the deadline for filing pretrial motions.

## AMENDING THE CASE MANAGEMENT CONFERENCE ORDER

I.

On February 2, 2012, the Court held an early neutral evaluation conference in this case [ECF No. 24]. At the time of the conference, an order was issued setting deadlines for the parties to hold a rule 26(f) conference, February 27, 2012, and make their initial disclosures, March 25, 2012. (Order Foll. Early

Neutral Eval. Conf. 2, ECF No. 24.) To date, Plaintiff has not initiated any discovery. (See Pl. J.K.G.['s] Ex Parte Motion 2, ECF No. 34.)

Plaintiff seeks a ninety-day extension of certain pretrial dates which have elapsed or will soon.

A district court has broad discretion in supervising the pretrial stage of an action. C.F. v. Capistrano Unified Sch.

Dist., 654 F.3d 975, 984 (9th Cir. 2011) (quoting Miller v. Safeco
Title Ins. Co., 758 F.2d 364, 369 (9th Cir. 1985)). The court should not amend a scheduling order that was issued unless the party requesting the modification can show good cause. Fed. R.

Civ. P. 16(b)(4). "Rule 16(b)'s 'good cause' standard primarily considers the diligence of the party seeking the amendment."

Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). "Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." Id.; see Capistrano Unified Sch. Dist., 654 F.3d at 984.

Deadlines are not options. "Allowing parties to disregard instructions of a scheduling order would undermine the court's ability to control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent and cavalier. Rule 16 was drafted to prevent this situation." <u>Sokol Holdings, Inc. V. BMB</u>

<u>Munai, Inc.</u>, No. 05-cv-3749, 2009 U.S. Dist. LEXIS 100478, at \*17 (S.D.N.Y. Oct. 28, 2009) (citation omitted) (internal quotation marks omitted).

1	The standard for amending a scheduling order was described in
2	<u>Zivkovic v. S. Cal. Edison Co.</u> , 302 F.3d 1080 (9th Cir. 2002).
3	"The pretrial schedule may be modified 'if it cannot reasonably be
4	met despite the diligence of the party seeking the extension.'"
5	Id. at 1087 (quoting <u>Johnson v. Mammoth Recreations, Inc.</u> , 975 F.2d
6	at 608). "If the party seeking the modification 'was not diligent,
7	the inquiry should end' " <u>Id.</u>
8	Here, the Plaintiff's Ex Parte Application does not show
9	diligence and good cause. Plaintiff's Ex Parte Application is
10	DENIED.
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12	DATED: September 5, 2012
13	Ruben B. Brooks, Magistrate Judge United States District Court
14	cc:
15	Judge Sammartino All Parties of Record
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